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Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In October 2002, voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a 4-year term in a free and fair election. The Constitution provides for an independent judiciary; however, it was inefficient and, particularly at the state level, subject to political and economic influences.

The military is responsible for national defense and generally played little role in internal security. The federal police force is very small and primarily investigative; most police forces fall under the control of the states. The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order, with a separate judicial system. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The country has a diversified market-based economy and a population of approximately 182 million. Industrial production (including mining operations and the capital goods sector) accounted for 39 percent of gross domestic product (GDP). The agriculture sector contributed 10 percent and services the remainder. High government net debt (approximately 55 percent of GDP) complicated fiscal and monetary policymaking. GDP grew approximately 5 percent during the year, and average wages kept pace with inflation after several years of sharp decline. Income distribution remained highly skewed.

The Federal Government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the record of several state governments was poor. State police forces (both civil and military) committed many unlawful killings and killings due to excessive force. Police also were implicated in killings for hire and death squad executions of suspected criminals, persons considered undesirable, indigenous people, and labor activists. Police tortured and beat suspects and arbitrarily arrested and detained persons. Despite its powers to do so, the federal police failed to act in the numerous human rights violations by state authorities, and failure to punish perpetrators perpetuated a climate of impunity.

Prison conditions often were poor or extremely harsh and life-threatening. Prison officials frequently tortured and beat inmates, including in juvenile detention centers. The judiciary had a large case backlog and often was unable to ensure the right to a fair and speedy trial. Justice remained slow and unreliable. Victims, particularly suspected criminals, had difficulty in being heard by oversight bodies. Investigations of human rights abuses by police officials normally were limited to internal police reviews and seldom were subject to independent review. Military police tribunals remained overloaded, rarely investigated cases thoroughly, seldom convicted abusers, and allowed many military and civil police officers involved in unlawful killings or the abuse of prisoners to go unpunished.

Violence and discrimination against women; child abuse and prostitution; and trafficking in persons, particularly women and children for the purpose of prostitution and slavery, remained problems. Government authorities often failed adequately to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas. Afro-Brazilians and homosexuals continued to face societal discrimination and, on occasion, violence. Intimidation and killings of rural labor union organizers and their agents continued to be a problem. Rural violence, including the killings of land reform and rural labor activists, persisted. Forced labor was a widespread problem, and violators enjoyed virtual impunity. Child labor was a widespread problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life

There were no reported politically motivated killings by the Government or its agents; however, unlawful killings by state police (military and civil) remained a serious problem throughout the country.

In January, the U.N. released the report of its Special Rapporteur on Summary Executions, Asma Jahangir, which was based on her 22-day visit to the country in September and October 2003. Although the Rapporteur found no comprehensive official disaggregated data on police killings, she noted that the "use of deadly police violence against civilians was rife" and that available information "indicated an alarmingly high rate of police killings." Historical information indicated that on-duty officers were responsible for less than half of the homicides by police (the great majority of the killings being committed by military police), while off-duty police were responsible for more than half of such homicides. Government officials (including President Lula) acknowledged the continued problem of unlawful killings by law enforcement officials.

Death squads with links to law enforcement officials carried out many of the killings, in some cases with police participation. According to U.N. Special Rapporteur Jahangir, "many high-ranking officials" acknowledged that "many death squads had ties with state police." The National Human Rights Secretary stated that death squads operated in 15 states. Credible, locally-based human rights groups reported the existence of organized death squads linked to police forces that targeted suspected criminals and persons considered "undesirable"--such as street children--in almost every state.

The Sao Paulo State Secretariat for Public Security reported that Sao Paulo police (civil and military) killed 322 civilians in the first 8 months of the year compared with 868 civilians during 2003; off-duty policemen were responsible for 54 of the killings. The Ombudsman's Office of the state police of Sao Paulo received 165 complaints of killings committed by police between January and September.

There were numerous allegations of police abuses in the city of Sao Paulo, particularly in the northern district (Parque Novo Mundo neighborhood) and in the eastern district (Sapopemba neighborhood). Some of the alleged abuses included the killing of civilians. Parque Novo Mundo residents allegedly suffered arbitrary abuse committed by members of the Military Police 5th Battalion and the 6th Company, including death threats, home invasions, attempts to extract incriminating evidence against members of the community, extortion, and killings of community youth. In many of the cases, victims reported that the police removed their name badges and called each other by nicknames. Human rights activists suspected police involvement with organized crime in the region. Members of the community met repeatedly with the police ombudsman and human rights activists to complain about the abuse. Following the meetings, police abuse reportedly continued, and several community leaders received death threats.

Rio de Janeiro's Security Secretariat reported that state police killed 593 persons during the first 8 months of the year, a 25 percent decline from last year's figure; however, unofficial reports estimated that approximately 3,000 police killings occurred during the year.

In May, the Sao Paulo State Secretary for Public Security reported that internal affairs for both the civil and military police were investigating cases of death squad activity in Guarulhos and Ribeirao Preto, both large cities in Sao Paulo State. The National Secretary for Human Rights had established a commission in 2003 to investigate these cases.

The 2003 military police internal affairs investigation into the existence of a police death squad that allegedly targeted and killed troublemaking youths in Guarulhos, Sao Paulo, continued. Two military policemen and two private security guards were charged in the April 2003 killing of three adolescents and remained in jail at year's end. The State Public Prosecutor's Office indicted 11 policemen for participation in the death squad and investigated 27 others. The office also requested special protection for the targeted youths and their families.

In November 2003, the Ribeirao Preto Public Prosecutor's office indicted civil policemen Thiago Ferreira da Silva Moreira and Ricardo Jose Guimares for the May 2003 death of Thiago Xavier Stefani and participation in a Ribeirao Preto death squad linked to 30 other deaths. Moreira, who was already in prison for trafficking stolen cargo, was released on May 13. Guimares, charged with the death of Tatiana Assuzena, escaped from prison on June 10. The Sao Paulo Civil Police internal affairs office continued to investigate Moreira and Guimares' involvement in the death squad. Internal Affairs was also investigating the participation of civil policemen Pedro Moretti, Sergio Siqueira, Fernando Serrano, and the former director of the forensics unit in Ribeirao Preto, Carlos Sampaio. On June 15, the Civil Police commander of Ribeirao Preto, Jose Manoel de Oliveira, was replaced.

Two witnesses who reportedly had information about death squads, Flavio Manoel da Silva and Gerson de Jesus Bispo, were killed in October 2003 in Bahia and Pariaaba States after separate meetings in September 2003 with the visiting U.N. Special Rapporteur on Summary Executions. Authorities arrested two persons in the da Silva killing and two military police officers for Bispo's killing, but neither case had gone to trial by year's end.

In many cases, police officers employed indiscriminate lethal force during apprehensions, killing civilians despite the lack of any real danger to themselves. U.N. Rapporteur Jahangir's analysis concluded that such "police killings are often poorly disguised extrajudicial executions." In some of these cases, the civilian's death followed severe harassment and even torture by law enforcement officials (see Section 1.c.).

In January, military police officer Ivan Cesar Salvador of Sao Jose dos Campos in Sao Paulo State shot and killed Ednilson da Silva. The officers reportedly were searching for youths who had robbed a nearby gas station when they stopped the car in which da Silva and his friends were riding. Da Silva, a student who stuttered and was deaf in one ear, reportedly did not quickly answer the policeman's questions. Salvador was arrested for homicide, and the military police initiated an internal affairs investigation; however, on January 13, Salvador was released under the military penal code. The Sao Paulo Police Ombudsman criticized the release, noting that Salvador had been investigated in 2002 for another homicide.

On February 3, police shot and killed Flavio Sant'Ana, an Afro-Brazilian dentist, as he walked down the street in the city of Sao Paulo. Police Lieutenant Carlos Alberto de Souza and four officers reportedly were searching for an Afro-Brazilian male who had robbed storeowner Antonio Alves dos Anjos when they encountered Sant'Ana. Anjos told police investigators that that officers opened fire as soon as they saw Sant'Ana. All five officers were arrested; Souza and two others were charged with the killing, possession of an illegal weapon, and coercion. The trial was pending at year's end. Press and human rights activists alleged that the killing was racially motivated.

On July 31, in Brasilia, military policeman Marcos Aurelio Epifanio shot and killed Fernando Santos Maia da Conceicao, a university student. The policeman alleged that he had been informed about a robbery at a gas station and the suspects reportedly were driving a car identical to Maia da Conceicao's. Local television stations filmed police officials removing the car from the scene and alleged that the police did not properly investigate the incident.

On May 15, in Sao Paulo city, four military policemen shot Parque Novo Mundo housewife Raimunda Furtado while she was purchasing bread at a supermarket. According to witnesses, the police first mistook her for a robber and subsequently refused to provide first aid. Furtado died at the scene. Military policeman Fabio Trevisoli, who claimed that it was an accidental shooting, was arrested later that evening for the killing. On June 19, the Military Police internal affairs office announced that 15 of the policemen suspected of making threats and committing abuse against the community had been placed under administrative arrest. The majority of the policemen arrested belonged to the 5th Battalion. In September, the military public prosecutor requested that the case be brought before the public judicial system. On December 17, Trevisoli was formally indicted for murder before the public courts. Three other military policemen, Alberto Massahiko Suganuma, Helio Correia de Lima, and Joanito Queiroz Pereira, were formally accused of prevarication and failure to administer first aid.

U.N. Rapporteur Jahangir noted that some members of the police exploited an overall climate of violence to deliver "rough" justice to those whom they consider "socially 'undesirable.'" In August, 16 homeless persons were attacked in a series of incidents during early morning in downtown Sao Paulo; 7 died as a result of the attacks. On September 14 and 16, police arrested military police officers Jayner Aurelio Porfirio and Marcos Martins Garcia and private security guard Manoel Alves Tenorio for the killings. The State Secretary for Public Security announced that he believed the suspects were involved in a clandestine security scheme involving the trafficking of drugs. In November, the state attorney's office requested that the investigation be reopened after arguing that there was not enough evidence for indictments; charges were then dropped against all three, although Porfirio and Garcia remained in prison on drug trafficking and treason charges. An investigation by the state attorney's office revealed that, during the past 3 years, 58 similar attacks against homeless persons resulted in 24 deaths.

At the end of August, off-duty policeman Clecio Barbosa Ayres shot and killed journalism student Thomas Schwarzenberg Vicente on the Imigrantes Highway between Sao Paulo and Santos. Vicente was returning with friends from the beach when he hit Ayres's bumper. Military highway police arrested Ayres and charged him with first-degree murder. He was in prison awaiting trial at year's end.

A police internal affairs investigation into the involvement of 13 military police arrested for the May 2003 killing of William Douglas Santos and Farbricio da Conceicao in Campinas, Sao Paulo, progressed to the police inquiry stage at the Campinas court.

In August, Rio Grande do Sul military policemen Ronaldo de Freitas Garcia and Fabio Rosa Dorneles were convicted of killing Gustavo Fernando Burchardt during a high speed chase in July 2003. At year's end, the two were awaiting sentencing.

No new information was available regarding highway patrolman Jose Vargas de Oliveira, accused of killing a truck driver who refused to pay a bribe in Campos, Sao Paulo State, in 2002. He was tried by jury in Campos in May 2003.

Numerous credible reports indicated the involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see Section 1.e.).

Police officers accused of crimes less serious than willful murder are prosecuted in special military tribunals. Civilian courts have jurisdiction over police murder, but the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations (see Section 1.e.).

No further information was released on the 2002 case involving a military police organization called Group for Repression of Crimes of Intolerance (GRADI). Police internal affairs and state prosecutors were investigating GRADI's connection to the 2002 highway killings of 12 members of the criminal faction and prison gang, First Command of the Capital (known as the PCC). In December 2003, the Sao Paulo State prosecutor brought charges of homicide against the police involved, including a colonel, his deputy commander, and the lieutenant colonel in charge of GRADI. GRADI officers were accused of 27 other killings, although no homicide charges were brought against them, and all of the officers continued on active duty, with the exception of the former GRADI coordinator, who retired. GRADI was officially dissolved in April 2003, but human rights groups believed that police from this group still operated in a similar, although unofficial, manner. The Police Ombudsman's office was unable to obtain information on developments in the investigations. Credible locally-based human rights activists claimed that the case has been placed under "secret seal" due to the organization's connections to the state secretary of public security.

There were no new developments in the investigation of Sao Paulo military policemen who allegedly burst into a bar in 2002 in

the Baixada Santista region of Sao Paulo State and killed five adolescents and the bar owner while searching for a youth who stole a sergeant's weapon.

The Campinas lower instance jury court agreed to hear the case of the anti-kidnapping police investigator accused of killing Jorge Jose Martins in his Campinas, Sao Paulo home in 2002. The judge has summoned witnesses for oral testimony in June 2005.

On October 17, 2003, a jury in Itanhaem convicted military police officers Mauricio Miranda and Silvio Ricardo Monteiro Batista for the 2002 killings of Anderson do Carmo and Celso Gioielli Magalheas Junior in Guarujá, Sao Paulo State, and expelled both officers from military police service.

An investigation continued in the 2001 case in which five civil police killed four individuals suspected of involvement in the killing of the mayor of Caraguatatuba, Sao Paulo. In April, upon court orders, forensics investigators reconstructed the killings. In May, the mayor's widow, Roseana Garcia, met with President Lula to request that the federal police become involved in the investigation.

Rapporteur Jahangir stated that 75 percent of those she interviewed at the juvenile detention center in the Bras neighborhood in Sao Paulo city reported "having been eyewitnesses of extrajudicial killings by the police."

No further information was available on the criminal trial of Carlos Alberto Xavier do Nascimento, former director of security and discipline of the Andradina Penitentiary in Sao Paulo State. He was charged with three homicides in the 2001 asphyxiation deaths of three prison gang members reportedly involved in prison rebellions.

There were no developments in the case of 85 police officers awaiting trial for their participation in the 1992 Carandiru prison massacre in which 111 prisoners were killed. The murder conviction of retired Colonel Ubiratan Guimaraes for his part in the massacre remained under appeal, and he remained free and continued to serve as an elected state deputy.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.).

There were reliable reports of killings of government officials by those who had vested interests in the officials' professional activities.

On January 28, four Labor Ministry inspectors were killed in the town of Unai in Minas Gerais State. On the day before the killing, the four officials had found irregularities on a farm belonging to Norberto Manica. Manica was detained along with nine other suspects, including his brother, Anterio, who was elected mayor of Unai in October. At year's end, all suspects were in jail, excluding Anterio, who as an elected official is entitled to certain immunities. The federal Congress created a parliamentary commission in April to investigate the deaths. The commission last met in June but had not issued a report by year's end.

In September, two police officers were convicted and sentenced to 25 years in prison for the March 2003 murder of Judge Alexandre Martins de Castro Filho in Vitoria, Espirito Santo State.

There were numerous killings of indigenous people, mostly related to land disputes (see Section 5) and of rural labor union organizers (see Section 6.a.).

The Ombudsman's Office of the Ministry of Agrarian Development reported 31 rural killings for the period between January 1 and November 30.

Many persons were killed in recent years in conflicts involving land ownership and usage. The organization Landless Rural Workers' Movement (MST) continued its campaign of invasion and occupation of private and public lands to spur agrarian reform. The MST also continued its occupation of public buildings. MST activists sometimes used confrontational and violent tactics and destroyed private property during some occupations.

On July 31, in Parana State, an MST activist was killed and six others injured, allegedly by private security guards, during an attempted land invasion at the Santa Filomena ranch. Police isolated the area after the conflict, and the state government appointed a special investigator to conduct an inquiry into the murder. No further information was available at year's end.

The March 2003 killing in Tamandare, Pernambuco State, of the president of Rural Workers from Mascatinho Settlement Association, Jose Candido da Silva, remained under investigation at year's end.

No further information was available on the September 2003 killing of MST leader Paulo Sergio Brasil and 3 other MST members by security guards as they were moving with 100 others to invade the Coquerio Ranch in Foz do Jordao, Parana State. Authorities charged eight guards with homicide and one MST member with attempted homicide and placed them under investigative detention. The Parana State secretary for public security announced that the guards had been imprisoned and the crime was likely planned beforehand.

b. Disappearance

There were no reports of politically motivated disappearances.

Police were implicated in kidnappings for ransom. Uniformed and civil police involvement in criminal activity, including kidnapping and extortion, was widespread.

In June, three adolescents were chased, kidnapped, and killed in the Parque Novo Mundo neighborhood in Sao Paulo city by officers of a special military police mobile unit. According to the victims' families, military policemen searched men attending the victims' funerals to intimidate attendees. In lieu of punishment, the policemen were transferred to the administrative section of the police department and received a psychological evaluation, which is normal for police officers who are present during the death of a suspect.

On November 29, police arrested military policeman Anderson Goncalves Viana and his brother-in-law as suspects in a building invasion, which occurred the previous day. Fifteen masked men invaded a condominium building in northern Sao Paulo city and held occupants hostage for hours while they ransacked the apartments. Both Viana and his brother in law were found with weapons, ammunition, money, and stolen goods.

An internal investigation resulted in the recommendation to dismiss Sao Paulo civil police narcotics investigators Arnaldo Barbosa Filho and Ricardo Kochi, who were charged in May 2003 with the kidnapping of Jonathan Wink Soligo and Jefferson Santana de Souza. No further information was available on the result of actions taken on the recommendation.

The internal affairs departments of the civil and military police initiated administrative disciplinary procedures in the case of two Sao Paulo civil policemen from the Anti-Kidnapping Division and a military policeman who were charged with a June 2003 kidnapping. The investigations continued at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit torture and provide severe legal penalties for its use; however, torture by police and prison guards remained a serious and widespread problem.

The NGO National Movement for Human Rights, which administered the Ministry of Justice's torture hotline, Torture SOS, reported receiving 2,532 calls alleging torture or inhuman or degrading treatment from November 2001 to the end of January. The NGO also reported that most allegations of institutional torture took place in rural areas. Actual incidents of torture may have been significantly higher than use of the hotline indicated because of underreporting and because ombudsmen, police stations, and state commissions also received complaints. The Sao Paulo State Police Ombudsman's Office received 38 complaints of torture from January through September. In July, the Torture SOS hotline ceased functioning, as the Federal Government withdrew from its commitment to assume the hotline's operations.

The National Movement for Human Rights reported that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that most victims were young, poor, Afro-Brazilian men from less-developed regions. For the period October 2001 to June 2003, it reported an average of 150 cases per month, a rate that reportedly did not change significantly during the year. Most reports came from remote cities in the interior where low-ranking police were in charge.

The NGO Christian Association for the Abolition of Torture estimated that it had received complaints of 600 new cases of torture in the Sao Paulo State prison system from the end of 2002 until mid-year.

According to a state public prosecutor for children and youth (responsible for defending the rights of incarcerated youth), as of July, there were 14 ongoing cases of torture claims in Sao Paulo's juvenile detention system (FEBEM). Over 170 prison officials had been accused of practicing torture, but approximately 70 of them were still working within FEBEM facilities. In May 2003, FEBEM created an internal investigations office, which, according to officials, has improved the process of verifying accusations.

The police often, but not always, appeared to have impunity in cases of torture, as in other cases of abuse. Often the police themselves were responsible for investigating charges of torture carried out by fellow police officers. The problem remained most pervasive at the state level. Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see Section 1.e.).

In February, in Sao Bernardo do Campo, Sao Paulo military policeman Wilson Rossi Schilive arrested five persons for stealing his car. The five suspects, between the ages of 21 and 24, were kept in jail for 112 days and subjected regularly to torture, including the use of pliers on a woman's breasts and fingers. The suspects, who were never charged, attested that 20 military police officers participated in the torture sessions. The Sao Bernardo judiciary and military police internal affairs units began investigating the accusations. On August 13, Schilive along with 3 other military policemen, Adenislon Ramos, Ademilson Viana, and Sandro da Silva Serra, were charged with torture, temporarily imprisoned, and were awaiting trial. Two of the policemen also had been accused of torturing two other youths in February. On October 1, the four policemen had their first hearing before the Sao Bernardo do Campo 4th Criminal Court. On October 26, the five victims gave their testimony to the court.

On August 11, the public prosecutor for children and youth accused FEBEM's Raposo Tavares unit 27 of torturing youth in July by burning them with fireworks. On September 13, that office released a report on the maltreatment of unit 27 inmates with medical records confirming the use of explosives on inmates' skin. On September 16, the unit administrator, Jose Christiano Viana, was removed provisionally from his position for the maltreatment of inmates and the lack of hygiene and socio-educational activities in the facility.

There was no further information on the March 2003 case of Adenilson Felinto dos Santos, a truck driver who alleged that he was tortured by military police.

On January 19, the Sao Paulo State public prosecutor charged five civil Anti-Kidnapping Unit policemen, including Antonio Assuncao de Olim, chief of the Anti-Kidnapping Operations unit, and one police clerk with torturing Jandira de Oliveira Azevedo and Leoclecio Zubem Azevedo, a married couple, and Wagner Mauricio Moreira Belens in April 2003 in the Sapopemba neighborhood of Sao Paulo city. At the time of the couple's arrest, police physically abused them in front of their young children and then subjected the three victims to further beatings and pepper gas while in custody. On January 20, Judge Eduardo Crescenti Abdalla denied the prosecutors' request for preventive imprisonment and placed the case under judicial seal. Former Ministers of Justice Jose Carlos Dias and Miguel Reale Junior, and criminal lawyers from the Institute for the Defense of the Right to Defense (IDDD) represented the couple. On March 30, the state Public Prosecutor resubmitted charges against Olim and three of the civil policemen and requested temporary imprisonment. On June 24, Judge Abdalla rejected the prosecutor's charges and dismissed the case for insufficient evidence. The civil police internal affairs office was conducting a concurrent investigation of the case.

There was no further information available regarding the case opened by a Sao Paulo court in July 2003 against 13 military police accused of torturing two prisoners recruited by GRADI to infiltrate a criminal organization (see Section 1.a.).

No information was available on whether disciplinary action was taken against the civil police involved in the August 2003 Parana State case in which mechanic Carlos Ribeiro Morais was tortured for 5 hours and ordered to confess to a series of robberies.

In August 2003, Chan Kim Chang, a naturalized Brazilian citizen, was arrested at Rio de Janeiro's international airport for failing to declare the \$30,550 in his possession. While in police custody, Chang was beaten severely and later died. Six police officers were arrested but freed pending trial. In December, 9 of the 11 persons accused of torturing and killing Chang were convicted; sentences ranged from 13 to 18 years in prison. Everson Azevedo Motta, the penitentiary police officer who beat Chang, received the highest sentence of 18 years. Ex-penitentiary director Luiz Gustavo Matias Silva and penitentiary police officer Denis Goncalves were acquitted due to a lack of evidence.

There were no reported developments and none were expected in the investigation of the 11 police officers accused of the 2002 torture of Osmarilton Meneses dos Santos in Bahia.

In some cases, sexual orientation or gender identity may have played a role in cases of torture and cruel treatment (see Section 5). NGOs confirmed that police committed abuse and extortion directed against transvestite prostitutes in the cities of Rio de Janeiro, Belo Horizonte, and Salvador.

Prison conditions throughout the country often were poor or extremely harsh and life threatening. Penal authorities in those states with the largest prison populations frequently did not separate juveniles from adults or hold petty offenders separately from violent criminals. Prison riots were frequent and often violent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (see Section 1.a.). The poor working conditions and low pay for prison guards also encouraged corruption.

Severe overcrowding in prisons and police detention centers was prevalent and was worst in the states with the largest prison populations. According to the Ministry of Justice, between January and June, there were 331,547 prisoners in a system designed to hold 108,953. Construction of new penitentiaries continued but was inadequate to alleviate overcrowding.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Although there was no official count, numerous prison riots and rebellions occurred during the year, many of which left inmates injured or dead. The Sao Paulo secretary of prison administration reported that there were 29 deaths in his system during the year, compared with 27 for all of 2003.

CAJE, a juvenile detention center in Brasilia, Federal District, held 376 youths in a facility designed to hold 196 and employed 15 guards. The staff included a doctor, a nurse, a psychiatrist, 12 psychologists, 22 social assistants, and some teachers. Of the total number of detainees, 26 were females held in separate living quarters. CAJE was constructing additional facilities to accommodate detainees. Local critics reported that CAJE suffered from inadequate space, understaffing, violence, and unsatisfactory treatment of inmates with mental disabilities.

Prisoners were subjected to unhealthy conditions. Scabies and tuberculosis diseases uncommon in the general population--were widespread in Sao Paulo prisons, as were HIV/AIDS, hepatitis, and even leprosy. According to local NGOs, infectious

diseases, such as AIDS and tuberculosis, have reached endemic levels among prisoners. The HIV/AIDS infection rate among prisoners was between 20 and 30 percent; infected prisoners were eligible to receive antiretroviral cocktails. Early in the year, the Ministry of Health reported that skin infections, respiratory problems, HIV/AIDS, sexually transmitted diseases, and tuberculosis were commonly found among prisoners. The Catholic Church's Ministry for the Incarcerated in Sao Paulo reported that, in several of the city's police jails, almost 90 percent of the detainees suffered from skin or respiratory illnesses, and prison administration officials reported that many prisoners who transferred into the Sao Paulo penitentiary system were infected in police jails. Denial of first aid and other medical care sometimes was used as a form of punishment.

Overcrowding was an even greater problem in police jails than in penitentiaries. Due to pretrial delays and overcrowding in state penitentiaries, some 72,301 prisoners were held in local lockups, awaiting either trial or transfer to state penitentiaries. The situation was critical in Sao Paulo city's 52 police jails, which had a capacity for 1,332 prisoners but, as of October, held 9,575. The Sao Paulo State secretary for public security continued a 10-year program to close all of the city's jails by 2005; thereafter, all detainees would be transferred to the state penitentiary system.

On January 27, 21-year-old student Romulo Batista de Mello died while in police custody for driving a stolen car. Claiming that Mello's behavior was violent, the police sedated him before taking him to a holding area, where he died 6 days later. The police maintained that Batista de Mello caused his own death by hitting his head against his cell wall. However, the Rio de Janeiro State secretary for public security acknowledged that Mello had been beaten. In April, the Rio de Janeiro state prosecutor brought charges of torture against three police officers and a charge of negligence against a doctor involved in the case, and the case remained pending at year's end.

In April, rioting prisoners at the Urso Branco prison in Rondonia State killed 14 inmates. Urso Branco, with a capacity of 350 prisoners, held approximately 1,300 at the time of the riot. In 2002, the Inter-American Commission on Human Rights (IACHR) had authorized precautionary measures to protect detainees at Urso Branco and resolved that the Government act to assure respect for the lives and physical integrity of the detainees. On April 22, the Inter-American Court of Human Rights ordered the Government to bring conditions in the prison to international standards, investigate past incidents, and submit a report to the Court by May 3. No information on the Government's response was available.

In June, a prisoner riot in the Casa de Custodia de Benfica prison in the city of Rio de Janeiro left 18 prisoners dead. The prison, with a capacity of 1,400 prisoners, held 6,000 at the time.

An August riot in the Julio de Castilhas Prison in the interior of Rio Grande do Sul State left six dead and an unknown number injured, including the prison's administrator. The prison had a holding capacity of 40 inmates but held 90 when the incident occurred.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture continued to pervade Sao Paulo's FEBEM juvenile detention centers. Between January and November, four adolescents died from violence at FEBEM facilities. The Sao Paulo FEBEM system had more than 6,000 inmates and accounted for more than half of the country's youth prison population. FEBEM detention center employees went on strike from July 2 until September 15, leaving facilities unsecured.

The Franco da Rocha units 30 and 31, which a state judge ordered closed in 2002, were closed on December 30, 2003, and their 250 prisoners were transferred to the Tatuape unit of FEBEM. The transferees reported being tortured upon arrival in Tatuape. They told visiting human rights activists and community custodians of spending days sitting still and facing a wall without being allowed to speak. Human rights activists claimed that the same FEBEM authorities accused of torture in the Franco da Rocha facility also were transferred to Tatuape. The Association of Mothers of Prisoners reported difficulty in gaining access to the Tatuape facility. In January, the Public Prosecutor for Children and Youth started an investigation of the accusations.

In July, the human rights NGO Conectas won a suit against the Tatuape facility for not complying with municipal building codes, and the court ordered Sao Paulo State to bring the unit up to municipal fire and construction codes within 90 days. Conectas brought the case to court after the death of an inmate in July 2003. FEBEM filed for a suspension of the court order until a judgment was made based on the action, Conectas counter-sued, and both cases were pending at year's end.

On January 22, two inmates of FEBEM's Vila Maria unit were shot and killed while trying to escape. The killings remained under investigation. Escapes from FEBEM facilities increased significantly, with several episodes of more than 100 inmates escaping at a time. The Sao Paulo Department for the Execution of Justice for Children and Youth started administrative procedures to determine the involvement of public employees. The Sao Paulo State Treasury Forum began a civil action to determine the indemnity and responsibility of the state in the case.

In June, 28 inmates of the Ribeirao Preto FEBEM unit were transferred to a state penitentiary for causing revolts, arson, and conspiracy. The Human Rights Commission of the Brazilian Bar Association and the state public prosecutor's office immediately requested that the youth be transferred back to the FEBEM system due to their age and the failure to follow proper procedures for such a transfer. A state judge granted the request, and the inmates returned to FEBEM within 3 days.

On August 13, a Raposo Tavares Unit 37 inmate was found dead. Although the FEBEM office of internal investigations reported

the death as suicide, the NGO Conectas and the Association of Mothers of Prisoners accused Raposo Tavares officials of torture leading to death. The public prosecutor's office started an investigation, but no information regarding the outcome was available at year's end.

Sao Paulo State took some remedial measures. Governor Alckmin replaced FEBEM presidents twice during the year and, in August, moved FEBEM from the state's Secretariat of Education to the Secretariat of Justice. On September 16, the FEBEM administration mandated medical evaluations for inmates every 15 days and daily reports by unit administrators of any disciplinary actions taken. On October 19, the new FEBEM president, Alexandre de Moraes, announced a new internal system of unannounced inspections in all units. Previously, 5 days' notice was required before an inspection. Unrestricted access was granted to the Brazilian Bar Association's Commission on Human Rights, the president of the NGO Association of Mothers and Friends of at-Risk Children and Youth, the president of the employees' union, community administrators, and the state councils on human rights and on children and adolescents. Other human rights organizations can either petition the FEBEM president to be added to the unrestricted access list or request authorization to visit a facility 5 days in advance.

On September 23, the directors of 10 of the most "critical" units, where maltreatment or aggression reportedly was common, were replaced. On October 14, the FEBEM president dismissed the director of unit 29 of the Franco da Rocha facility. On December 14, he dismissed the director of unit 2 and four team coordinators at the Tatuape facility for mishandling a rebellion earlier in the month. FEBEM reported that 11 employees were dismissed and 32 were suspended for using violence.

In December, a court sentenced 10 employees from the now-deactivated FEBEM Parelheiros unit for torturing 19 inmates in 2002. The employees' leader was sentenced to 15 years and 5 months in prison. This was the first sentencing of FEBEM employees for torture in Sao Paulo city.

Rio de Janeiro and Sao Paulo States provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors occurred. In Rio de Janeiro State, there were only two police districts in which women were held in gender-segregated, short-term jail facilities.

In March, the Association of Judges for Democracy reported that incarcerated women had fewer rights in Sao Paulo prisons than men. Women's institutions tended to be more overcrowded than men's and received less attention from prison administrators. Approximately 65 percent of female prisoners were held in severely overcrowded conditions and did not have jobs, education, and health care as required by law.

In May, female prisoners in Santos rebelled against poor conditions. The Santos prison was designed to hold 60 inmates but held 116. An August uprising to protest overcrowding at the women's penitentiary in Carandiru left one inmate dead. The penitentiary, which had an official capacity for 450 prisoners, held 681.

Authorities attempted to hold pretrial detainees separately from convicted prisoners; however, due to prison overcrowding, pretrial detention facilities often also held convicted criminals.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to Amnesty International, which reported no significant problems in gaining access to state-run prison facilities. Global Justice reported that the level of access to prison facilities varied from state to state. In Sao Paulo and Rio de Janeiro, Global Justice found it difficult to gain access. Sao Paulo also employed committees of community leaders to monitor prison conditions. Sao Paulo, like Parana and Rio Grande do Sul states, also had a prison ombudsman program.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, police continued, at times, to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

The federal police force is very small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units. The civil police are plainclothes officers with an investigative role, while the military police are the uniformed officers charged with maintaining order. U.N. Special Rapporteur Jahangir found that, although each state police force was monitored by its own internal affairs division, the units--subordinated to the chain of command and bound by ties of esprit de corps--often delayed applying administrative sanctions. This situation undermined efforts to address police abuses and contributed to a climate of impunity. Although the individual state governments control their respective military police forces, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system (see Section 1.e.).

A November report by the human rights NGO Centro Santo Dias and the Sao Paulo State Council in Defense of Human Rights (CONDEPE) stated that one in every four reported cases of police abuse involved extortion or flagrant scheming, in particular, to procure the release of a detainee. According to victims, police generally requested between \$1,500 (4,200 reais) and \$3,000 (8,400 reais) to release a prisoner. Other cases mentioned in the report include physical abuse, threats, and intimidation by the

police when giving testimony. On November 28, the head of the Sao Paulo military police internal affairs unit, Colonel Paulo Maximo, announced that his office had opened preliminary investigations of the cases contained in the report.

With the exception of arrests of suspects caught in the act, arrests may be made only with a warrant. The use of force during an arrest is prohibited unless the suspect attempts to escape or resists arrest. Suspects must be advised of their rights at the time of the arrest or before being taken into custody for interrogation.

In general, warrants were based on sufficient evidence and issued by a judge; however, the NGOs National Movement for Human Rights and Global Justice reported that, at times, warrants were issued arbitrarily, depending on the judge and the region of the country. Global Justice also reported that, in Rio de Janeiro and Sao Paulo States, many judges issued "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

Human rights observers alleged that civil and uniformed police regularly detained persons illegally to extort money or favors. In May, two military police officers from Itaquaquecetuba outside of Sao Paulo city were arrested for kidnapping an 86-year-old woman and keeping her in captivity for more than 20 days. Police believed that officers Alexandre Fonseca and Jose Aparecido da Conceicao led a kidnapping ring and were involved in other kidnappings in the metropolitan area.

The authorities generally respected the constitutional provision for a judicial determination of the legality of detention, although poor record keeping resulted in the detention of many inmates beyond their sentences. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period.

In criminal cases, defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice, the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing.

In general, prison authorities allowed detainees prompt access to family members or a lawyer, but there were cases when detainees--typically poor and uneducated--were held longer than the provisional period.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Government generally respected this provision in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and political and economic influences--particularly at the state level. Judicial officials sometimes were poorly trained and subject to corruption. In many instances, poorer, less educated citizens made only limited use of the appeals process.

Low pay and exacting competitive examinations that could eliminate as many as 90 percent of the applicants made it difficult to fill judicial vacancies. The law requires that trials be held within a set period of time from the date of the crime; however, due to the nationwide backlog in state and federal cases, courts frequently dismissed old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases purposely so that they could eventually be dismissed.

Federal judge Joao Carlos da Rocha Mattos, arrested in November 2003 in Sao Paulo, remained in a federal police jail at year's end for his alleged involvement in corruption that involved the selling of judicial sentences; two other federal judges, brothers Casem Mazloun and Ali Mazloun, were removed from the bench in December 2003. On December 17, Rocha Mattos and Cassem Mazloun were convicted of conspiracy in connection with the charges. Eight additional suspects, including six active and retired Federal Police officials and two businessmen, were also convicted of conspiracy; they received sentences ranging from community service to 3 years' imprisonment. Conspiracy charges were dropped against Ali Mazloun, but, at year's end, he and the other defendants still faced trial on corruption, abuse of power, identity fraud, and embezzlement charges.

At year's end, 115 senior judges were under investigation nationwide on a variety of charges.

The judicial system ranges from courts of first instance and appeals to its apex, the Federal Supreme Court. States organize their own judicial systems within the federal system and must adhere to the basic principles laid out in the Constitution. Specialized courts dealt with police, military, labor, election, juvenile, and family matters.

After an arrest, the chief judicial officer reviews the case, determines whether it should proceed, and, if so, assigns it to a state prosecutor who decides whether to issue an indictment.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions--particularly in rural areas--the judiciary generally was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill land activists or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay. A constitutional amendment passed in December seeks to remedy this shortcoming by granting federal prosecutors authority to take over human rights

cases from state prosecutors (see Section 1.a.).

The Constitution recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

The Constitution provides for the right to counsel; however, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases, the court must provide one at public expense. The law requires courts to appoint private attorneys to represent poor defendants when public defenders are unavailable; however, appointed private attorneys often did not provide adequate representation.

There is no presumption of innocence. Defendants have the right to appeal all convictions to state superior courts. They also have the right to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the federal Superior Justice Court. Any defendant sentenced to 20 or more years in prison has the right to an automatic retrial.

The law provides civilian courts with jurisdiction over cases in which uniformed police officers stand accused of "willful crimes against life," primarily murder (see Section 1.a.). However, in all but the most egregious cases, police tribunals decided whether or not the killing was willful. As a result, the civilian courts received very few case referrals involving police killings. The average case took 8 years to reach a definitive decision. At the appellate court level, a large backlog of cases hindered the courts' ability to ensure fair and expeditious trials.

In December, a constitutional amendment came into force with a wide array of judicial reforms. It streamlines procedures in the Supreme Federal Court and some lower courts, strengthens human rights protections, introduces structural and professional court reforms, and creates oversight councils to hear complaints and issues sanctions against judges and public prosecutors at the state and federal levels.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of witnesses involved in testifying against police officials (see Section 1.a.).

The National Movement for Human Rights noted that courts convicted a much higher percentage of Afro-Brazilian defendants than they did whites (see Section 5).

The Constitution mandates that special police courts exercise jurisdiction over state uniformed (military) police (except those charged with homicide). Most police officers accused of crimes appeared before these courts (which are separate from the courts-martial of the armed forces, except for the final appeals court). There were few convictions in these courts. Human rights groups noted that police were reluctant to investigate fellow officers and exploited statutes of limitation by stalling.

There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions; however, there were reports that the police conducted searches without a warrant (see Section 1.c.). Wiretaps authorized by judicial authority were permitted. The inviolability of private correspondence generally was respected.

In April, the Federal Supreme Court halted proceedings in the illegal wiretapping case of Senator Antonio Carlos Magalhaes. In the same decision, the court sent the cases of three alleged accomplices to be heard before a federal judge in Bahia State. Magalhaes allegedly had ordered the illegal wiretapping of hundreds of individuals and political opponents in his home state of Bahia.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice and did not restrict academic freedom.

Privately owned newspapers, magazines, and a growing number of online electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting.

The independent print and broadcast media were active and expressed a wide variety of views without restriction. Main media outlets included approximately 79 newspapers, 75 radio stations, 71 news websites, 40 magazines, 20 national television stations, and 16 news agencies. A minimal portion of the media was government-owned, including Agencia Brasil, Televisao

Educativa, Agencia Camara, and Agencia Senado; however, local and state level politicians, or their families or proxies, often owned local media outlets.

Foreign publications were distributed widely; prior review of films, plays, and radio and television programming only was used to determine a suitable viewing age.

In May, President Lula attempted to revoke the visa of New York Times journalist William Larry Rohter, Jr., whose reporting had personally offended the President. After substantial media coverage, strong public criticism, and a judicial order delaying deportation, President Lula withdrew his request for visa revocation, and Rohter continued to report from the country.

Journalists enjoyed no protection from violence, some of which may have been specifically motivated by their professional activities. According to the NGO Journalists Without Borders, two local journalists were killed during the year. On April 20, four gunmen on motorcycles shot radio host Samuel Roma outside his home in Coronel Sapucaia, in the State of Mato Grosso do Sul on the border with Paraguay. Roma, a well-known journalist who had frequently denounced drug trafficking and crime in the area, had called for police to investigate recent killings and claimed to possess information proving government officials' involvement in organized crime. Paraguayan police arrested three men suspected of killing Roma and handed them over to Brazilian police.

On April 24, in Timbaiba, Pernambuco State, two unidentified gunmen ambushed, shot, and killed journalist Jose Carlos Araujo of Radio Timbauba FM. Four days later police captured Elton Jonas Goncalves de Oliveira, who confessed to the killing. Araujo hosted a local radio talk show and had exposed the involvement of several well-known local figures suspected of murder in the region.

In June, a court sentenced Renato Santos Lira to 32 years in prison for the July 2003 killing of photographer Luis Antonio da Costa. The trial of Lira's alleged accomplice in the killing remained pending at year's end.

On July 11, in Santana do Ipanema, Alagoas State, a man shot and killed radio owner and host Jorge Lourenco dos Santos in front of his home. Santos owned a radio station in Criativa FM, frequently criticized local politicians and businessmen on his show, and was active in local politics. Local press and police reported that he had received death threats and was the target of two previous attempted killings. A police investigation remained pending at year's end.

Four of the seven persons, including alleged ringleader Elias Maluco, who were accused of killing prominent Rio de Janeiro television journalist Tim Lopes in 2002, lost their preliminary appeal and remained in jail awaiting trial. Indictments were issued for the three who did not appeal.

The trial of police officers Hercules Araujo Agostinho and Celio de Souza for the 2002 killing of Savio Brandao, owner of the Folha do Estado newspaper, was held in December 2003 in Cuiaba, Matto Grosso State. Former military police corporal Agostinho was sentenced to 18 years in prison for the shooting. Souza, whose case was delayed due to complications associated with a defense witness located overseas, remained in jail at year's end.

In December 2003, a judge from the Second Criminal Court of Salvador, Bahia issued an order of habeas corpus, freeing former police officer Mozart Costa Brasil, who had been sentenced in September 2003 to 18 years in prison for the 1998 killing of Manoel Leal de Oliveira, publisher and editor of the Itabuna weekly A Regiao. A judgment on the legality of the order has not been issued.

The Government did not impose restrictions on the use of the Internet; however, federal and state police monitored the Internet to detect online recruitment by sex traffickers and the activities of hate groups.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

In May, students from the Sao Paulo Technical College clashed with military police during student demonstrations in downtown Sao Paulo. Police injured 15 students with rubber bullets and clubs while attempting to maintain public order and reopen a blocked roadway.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Approximately three-quarters of the population identified themselves as Roman Catholic, and the Government maintained a Concordat with the Vatican. There is no official state religion. There were no registration requirements for religions or religious groups, and all faiths were free to establish places of worship, train clergy, and proselytize. The Government controlled entry into indigenous lands and required missionary groups to seek permission from the National Indian Foundation (FUNAI).

There were reports of anti-Semitic graffiti, harassment, vandalism, and threats via e-mail and telephone. Six students at Rio de Janeiro Catholic University were charged with anti-Semitism for spraying anti-Semitic graffiti in the university's restroom.

On October 11, the Congregation Beth Jacob synagogue in Campinas, Sao Paulo, was defaced with anti-Semitic graffiti, including swastikas and the phrase, in English, "kill all Jewish." The Regional Special Action Group for the Prevention and Repression of Organized Crime, the Sao Paulo Civil Police, and the Civil Police Office for Crimes of Intolerance were investigating the crime at year's end, and the Campinas city council passed a motion denouncing the act.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice, although there were restrictions on entry into protected indigenous areas, and a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent.

The Constitution prohibits forced exile as punishment, and it was not practiced.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts, who may not vote.

In the October 2002 national elections, PT candidate Luiz Inacio Lula da Silva won election to a 4-year-term with more than 61 percent of the vote in the second-round runoff. In October, nationwide municipal elections, held without any serious incidents, chose mayors and city councils in each of the country's 5,563 municipalities.

There were 7 major political parties with 25 or more seats in the national congress. At year's end, the ruling PT had 91 of the 513 seats in the Chamber of Deputies and 13 of the 81 Senate seats, but there were approximately 381 Deputies in the PT coalition that supported Lula's government.

Ethics and ethical behavior among public figures received heightened attention during both the Cardoso and Lula administrations. While corruption in the public sector has not been eliminated, implementation of new legislation provided greater public spotlight and scrutiny. Soon after a Code of Conduct for Senior Public Administration was promulgated in 2000, the Commission for Public Ethics was created to promote high standards of public behavior among both elected and appointed officials. Upon appointment or election, officials submit a confidential information declaration to the Commission listing assets, other sources of income, and possible activities or areas of conflict of interest.

The law provides for public access to unclassified government information, upon application to the Commission for Public Ethics; however, the bureaucratic process often slowed release of such information.

Women enjoyed full political rights and increasingly were active in politics and government. There were 9 women in the 81-member Senate and 44 women in the 513-seat Chamber of Deputies. There were four women in the cabinet and one woman on the Supreme Court.

There were three members of minorities in the cabinet and one on the Supreme Court. There were 27 Afro-Brazilians in Congress.

Diverse ethnic and racial groups, including indigenous people, were free to participate politically.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their views. Federal and state officials in many cases sought the aid and cooperation of NGOs in addressing human rights problems;

however, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, particularly members of the state police forces.

After the IACHR's August 2003 request for the Government to provide police protection for three human rights activists in Parana State who had received death threats in 2003, two of the activists were given minimal protection, and one left Parana State for several months. Representatives from the human rights NGO Centro Santo Dias had reported continuing military police involvement in torture Parana's prisons. The death threats succeeded in discouraging additional human rights activists in Parana from reporting such abuses.

Eight states had police ombudsmen (see Section 1.c.); however, some NGOs and human rights observers questioned their independence and effectiveness. U.N. Special Rapporteur Jahangir noted that ombudsmen's accomplishments varied dramatically, depending on such factors as funding and outside political pressure.

The Justice Ministry's Special Secretariat for Human Rights administered programs to reduce violence among the poor, train police officials in human rights practices, and combat discrimination against homosexuals, blacks, women, children, indigenous people, the elderly, and persons with disabilities.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex, race, age, religion, or nationality; however, discrimination against women, Afro-Brazilians, homosexuals, and indigenous people continued. The law provides prison penalties and fines for racist acts, including use of pejorative terms for ethnic or racial groups, use of the swastika, and acts of discrimination based on sex, religion, age, or ethnic origin.

Women

The most pervasive violations of women's rights involved sexual and domestic violence, which remained both widespread and underreported. According to a survey conducted by the World Society for Victims and used by the Senate in its 2004 Report on the Condition of Women, 23 percent of women were subjected to domestic violence; in about 70 percent of the occurrences, the aggressor was the victim's husband or companion; 40 percent of the cases resulted in serious injuries, but in only 2 percent of the complaints was the aggressor actually punished.

The Government acted to combat violence against women. Each state secretariat for public security operated women's stations ("delegacias da mulher") to address crimes against women; however, the quality of services provided varied widely, and availability was particularly limited in isolated areas.

The stations were intended to provide the following services for victims of domestic violence: Psychological counseling, temporary shelter, hospital treatment for rape victims (including treatment for HIV and other sexually transmitted diseases), and initiation of criminal cases by investigating and forwarding evidence to the courts. According to the Ministry of Justice, many of the women's stations fell far short of standards. There were approximately 307 stations for 5,563 municipalities; 40 percent were in Sao Paulo State and 13 percent in Minas Gerais State. The States of Acre, Alagoas, Ceara, Roraima, and the Federal District each had only one such office.

The Government continued to operate a toll-free hotline to address complaints of violence against women. The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically. A law enacted in June added domestic violence to the Penal Code and made it a crime punishable by 6 to 12 months' imprisonment. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended without a conclusion.

Rape, including spousal rape, is a crime punishable by 8 to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. The Penal Code allows a convicted rapist to escape punishment if he marries his victim or if the victim marries a third person and does not request or require an investigation or criminal proceedings.

Adult prostitution is legal; however, various associated activities, such as operating a prostitution establishment, are illegal. Local authorities in Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the year. Rio de Janeiro State passed a law requiring certain businesses to display signs listing the penalties for having intercourse with a minor. Women's groups reported that prostitutes encountered discrimination when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem (see Section 5, Trafficking).

Sexual harassment is a criminal offense, punishable by 1 to 2 years in jail. The law encompasses sexual advances in the workplace or in educational institutions, between family members, and between service providers or clients. In the workplace, it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim.

Women enjoy the same legal rights as men. A cabinet-level office, the Secretary for Women's Affairs, who oversees the Special

Secretariat for Women's Affairs, has responsibility to ensure the legal rights of women. The Constitution prohibits discrimination based on gender in employment and wages; however, there were significant wage disparities between men and women. In June, the Chamber of Deputies' Commission on the Feminization of Poverty reported that women generally earned 30 percent less than men and that, in households headed by single woman, the woman worker earned less than half the minimum wage. According to the Brazilian Institute of Geography and Statistics (IBGE), white Brazilian women earned on average 40 percent less than white men, and Afro-Brazilian women received 60 percent less earnings than white men. A federal government quota system requires that at least 20 percent of new federal government hires be women.

The Maternity Leave Law provides 120 days of paid maternity leave to women and 7 days to men. The law also prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates; however, some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Violations of the law are punishable by jail terms for employers of 1 to 2 years, while the company may be fined 10 times the salary of its highest-paid employee.

Active women's rights groups included: The NGO Feminist Center for Studies and Assistance, which focused on combating gender and racial discrimination by conducting studies and promoting advocacy activities to influence public policy affecting women, and the Institute Patricia Galvao, a separate NGO, which informed the public about women's rights and violence against women.

Children

The Government continued its commitment to children's rights and welfare, but millions of children suffered from the poverty afflicting their families, worked to survive, and failed to get an education.

The law provides that children age 6 and under receive free day-care and preschool. Schooling was free and compulsory between the ages of 7 and 14 and free, but not compulsory, for adolescents between the ages of 15 and 17 who did not attend primary school. Schooling was available in all parts of the country, although not every school had space for every child that wanted to attend. In 2002, IBGE reported a 97 percent school enrollment rate for children ages 7 to 14. Girls and boys attended school in comparable numbers.

According to Human Rights Watch, girls often lacked basic medical care and had fewer opportunities than boys to receive exercise, recreation, and participate in other activities.

The law prohibits subjecting any child or adolescent to any form of negligence, discrimination, exploitation, violence, cruelty, or oppression. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively.

In April, six councilmen and a municipal employee in Porto Ferreira in Sao Paulo State were found guilty and sentenced to prison for rape, corruption of minors, and conspiracy. All had been arrested in August 2003 on charges of participating in group sexual activities at barbecues involving elected officials, municipal employees, businessmen, and local girls between the ages of 11 and 16. Although serving a 42-year prison sentence, convicted city councilman Luiz Cesar Lanzoni was reelected to the city council in the October municipal elections.

In July, the military prosecutor's office of Rio Grande do Sul accused a military policeman of rape of a minor and 13 other military policemen of sexual abuse committed against minors. The acts allegedly were committed in police cars in 2001 and 2003 in the town of Triunfro. The inquiry began on February 11, and, after receiving threats, the minor entered the Rio Grande do Sul State protection program. The head of the military police internal affairs office reported that the policemen are expected to be tried and dismissed.

Trafficking in children for the purpose of prostitution was a serious problem (see Section 5, Trafficking).

Child labor remained a problem (see Section 6.d.).

In 2003, the University of Sao Paulo Research Institute Foundation (FIPE) estimated that 10,400 homeless persons lived in Sao Paulo city, of whom 2 percent were under the age of 17. The city of Rio de Janeiro, in cooperation with NGOs, operated 57 shelters and group homes for street children and has created an entity dedicated to street children called FUNDO RIO. The Sao Paulo city government runs several programs for street children, including a number of shelters for minors and the Sentinel Program, which identifies at-risk youth and provides social services, counseling, and shelter.

Trafficking in Persons

The law prohibits the transport of persons for illicit reasons within and outside the country; however, persons were trafficked from, within, and, to a lesser extent, to the country.

The Penal Code establishes a prison sentence of 3 to 8 years for transporting women in or out of the country for the purposes of

prostitution. The Statute on Children and Adolescents requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless the authorities grant prior approval. However, laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking.

The law does not specifically prohibit trafficking of men or the internal trafficking of women, although Congress was considering legislation to criminalize all forms of trafficking.

The Penal Code provides that traffickers of women may be fined and sentenced to prison terms of 1 to 3 years, which may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group.

Anti-trafficking laws generally were enforced, but violators rarely received criminal penalties because of the limitations of the statutes. Although complete data was not available, officials estimated that 50 to 100 labor trafficking defendants were prosecuted in 2003, however, many of those proceedings had not reached conclusion by year's end. According to the International Labor Organization (ILO), only 68 cases of trafficking of women for prostitution have been brought to the attention of federal authorities over the past 3 years. During the last quarter of the year, however, the country had its first three cases (one in Goiania and two in Fortaleza) of prison sentences for persons convicted of trafficking women abroad. Prison sentences ranged from 8 to 30 years. These cases received widespread media attention.

In October, police broke up a German-based sex trafficking ring in Fortaleza, Ceara, that offered European tourists sex with minors and sent women to Europe for prostitution through an on-line prostitution ordering service. The website, which federal police believed was hosted overseas, allowed men to select Brazilian women with desired characteristics in sex package tours priced from \$2,540 to \$3,810. The woman selected would meet the tourist in the country or would fly to Europe. The Federal Police arrested three Germans, including the owner and a recruiter, four Italian tourists, and five Brazilian employees. Police confiscated approximately 300 explicit photos of women and girls under the age of 19 and closed down the service. Those arrested were awaiting prosecution at year's end.

In October, the Secretariat for Human Rights in the Ministry of Justice launched a nationwide anti-trafficking in persons publicity campaign in Goiania, Goias, to prevent the trafficking of women for sexual exploitation abroad. Approximately 60 percent of women trafficked abroad came from Goias State. The program was co-sponsored by the U.N. Office of Drugs and Crime (UNODC) and the Government of Portugal. Female passport recipients receive a brochure that states "first they take your passport, then your freedom." The campaign includes radio advertisements and large warning signs in airports in Sao Paulo, Rio de Janeiro, Brasilia, Recife, Fortaleza, and Goiania. Police officers, judges, and foreign consulates in the country received training under this program.

In May, the Sao Paulo State Secretary of Justice inaugurated the Sao Paulo Office for the Prevention of Trafficking in Persons. This office conducted public education campaigns, assisted victims of human trafficking and sexual exploitation, and referred individual trafficking cases to the federal police and state attorneys. The office, the first of its kind in the country, was expected to open a center at the Sao Paulo international airport to assist victims who return to the country after being trafficked abroad.

On October 28, the Brasilia Federal District Prosecutor charged Benicio Tavares, then-Speaker of the Federal District's Legislative Chamber and president of the NGO Handicapped Association of Brasilia, with forced prostitution and the sexual exploitation of four minors. The Prosecutor charged that, on September 17, Tavares took part in a sex tourism boat trip on the Amazon River. Victims claimed that Tavares paid them approximately \$179 (500 reais). The case was still being investigated by the prosecutor's office at year's end, although Tavares enjoys legislative immunity and cannot be tried in a common court. Separately, the District Assembly's Ethics Committee chose not to open an inquiry into the case that could have resulted in Tavares' expulsion from the assembly. At year's end, the highest criminal court in the Federal District was considering whether to hear the case against Tavares.

Government authorities responsible for combating trafficking included various agencies of the Ministry of Justice (including the Federal Police), the National Human Rights Secretariat, the Ministry of Labor and Employment, the Ministry of Tourism, and the Ministry of Social Assistance. The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads. In a limited number of cases, they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers.

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. In addition, most women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions.

The country assisted with investigations of trafficking in Italy, Spain, Portugal, Japan, and the United States. A joint investigation between authorities in Goias State and Spain resulted in several arrests in Goias and the liberation of 24 women (including 4 from Goias) held as sex slaves in Valencia.

Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. NGOs estimated that some 75,000 women and girls were engaged in prostitution in neighboring South American countries, the United States, and Western Europe, many of them trafficked.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters (see Section 6.c.). Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops.

According to the CECRIA, patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon region, sexual exploitation of children took place in brothels that catered to mining settlements. In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and even trafficked them outside the country.

Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. NGOs estimated that approximately 500,000 children were involved in prostitution.

In July, Congress approved a report recommending that more than 200 persons, including politicians, judges, business leaders, and priests, should be investigated for crimes against minors, but no action had been taken on the report by year's end. The Parliamentary Investigation Commission reported 800 complaints of child sexual abuse from January to June.

CECRIA's 2003 report on trafficking in persons for commercial sexual exploitation, which drew on police, media, and other sources, identified 241 sex trafficking routes. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7). The study also named France, Switzerland, Germany, Argentina, Chile, Japan, Israel, and Iraq as destinations for trafficking victims. The report identified the cities of Rio de Janeiro, Sao Paulo, Belem, Fortaleza, Salvador, and Recife as exit points for persons trafficked to Europe. Rio de Janeiro and Sao Paulo were exit points for the United States, while victims destined for Argentina, Chile, and Paraguay passed through the city of Foz do Iguacu. Domestic routes included: From Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the north and northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region, which itinerant workers often transited. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. Domestically, trafficked agricultural workers were most often used in isolated areas of the Amazon region in the northern part of the country; many of the most serious cases occurred in the State of Para. The report also called attention to sex trafficking in areas with major development projects.

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

Police officials believed that most women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases, women were told that they would work as nannies or domestics. Upon arrival, the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

Internal trafficking supplied forced labor primarily from urban to rural areas for agricultural work and for sex tourism. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts.

Trafficking in persons was linked to international networks of crime, including drugs and arms trafficking and money laundering.

There was no evidence of any institutional government complicity in the trafficking, nor was there any known evidence of individual state-level law enforcement officers engaging in, encouraging, or abetting trafficking.

Several government programs assisted victims of trafficking, although efforts often were inconsistent and underfunded. The Ministry of Social Assistance operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. There were no special facilities or assistance for victims abroad. NGOs in trafficking source states provided victim assistance in job training, counseling, and other community reintegration assistance. The Office of the Comprehensive Program for the Prevention of and the Fight Against Trafficking in Persons operated seven centers to provide assistance to victims of both internal and international trafficking. A wide variety of locally based NGOs worked with trafficking victims, assisting in retraining and counseling activities.

Trafficking victims were not treated as criminals; however, access to support services was limited due to a lack of government resources. No statistics were available concerning the number of victims in shelters. Police usually referred victims to centers for treatment and counseling.

No official programs encouraged victims to file civil suits or seek legal action or restitution against traffickers. The Government maintained a witness protection program, which was overseen by the NGO, Office of Legal Assistance for Grassroots Organizations, working in coordination with government authorities. Although the program operated in all states, lack of resources limited its effectiveness.

The National Human Rights Secretariat conducted anti-trafficking information campaigns. The Government continued a campaign begun in 2003 to deter international traffickers and sensitize their potential victims to the dangers. The National Secretary for Justice led the campaign, which included opening offices in four states, education and training for officials, and public awareness campaigns. In addition, the Government undertook a government-wide initiative to combat the sexual exploitation of children, which included distributing information against sex tourism and underage prostitution.

Labor organizations and NGOs continued to conduct prevention campaigns. The Pastoral Land Commission (CPT) distributed pamphlets to rural workers in areas that historically served as targets for traffickers. The pamphlets warned rural workers about the methods of traffickers and offered practical advice to avoid this situation. A number of local unions instructed laborers to register with them and the police before leaving with a labor recruiter.

Persons with Disabilities

The Constitution contains several provisions regarding persons with disabilities, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation for them; however, groups that worked with persons with disabilities reported that state governments failed to meet the legally mandated targets for educational opportunities and work placement. The law stipulates percentages of vacancies that businesses must reserve for persons with disabilities: 2 percent in firms with more than 100 employees; 3 percent in firms with more than 300 employees; and 5 percent in firms with more than 500 employees. Firms that achieved these percentages could gain an advantage in competing for government contracts. A federal government quota system requires that at least 5 percent of new federal government hires be persons with disabilities.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within the Special Secretariat for Human Rights, had primary responsibility for promoting the rights of persons with disabilities.

Several laws were enacted during the year to protect the rights of persons with disabilities. A March law provides persons with disabilities the right to education and free instruction for those otherwise unable to attend classes. An August law requires that public and private parking lots reserve 2 percent of parking spaces for persons with disabilities and the elderly.

The Sao Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances, bathrooms, ramps, elevators, and signs for persons with disabilities. Nonetheless, persons with disabilities in Sao Paulo State had difficulty in securing necessary accommodations.

In April, the governor of Sao Paulo State requested that the Secretary for Justice and the Protection of Citizens enforce the state law permitting seeing-eye dogs access to all public transportation after a passenger was denied access to the Sao Paulo city Metro because of her seeing-eye dog.

In August, the press reported that only 496 of the Sao Paulo city's 977 bus lines provided wheelchair-accessible buses; the mayor's office revised the previous goal of providing at least one wheelchair accessible bus on each bus line to providing such service only on major bus routes.

There were 237 psychiatric hospitals with more than 48,000 patients in the country. From March through July, the Federal Council of Psychiatry and the Brazilian Bar Association conducted an inspection of the country's psychiatric hospitals in 14 states and the Federal District to investigate cases of violence, imprisonment, torture, and death. Their report, released on August 22, concluded that psychiatric patients received inadequate medical care and that the lack of inspection procedures created a major problem. In late August, Federal Minister of Health Humberto Costa announced that he would initiate judicial action against psychiatric hospitals with inadequate health care. According to the Ministry of Health, seven hospitals provided "appalling" health care.

National/Racial/Ethnic Minorities

Although the law prohibits racial discrimination, darker-skinned citizens, particularly Afro-Brazilians, frequently encountered discrimination. The government statistics agency, IBGE, relied on self-identification to determine the population's racial composition, using five categories: Black, brown (or mixed race), white, yellow (or Asian), and indigenous. In a 2002 IBGE national survey, approximately 6 percent of citizens declared themselves as black, and another 40 percent declared themselves as brown.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets.

The National Movement for Human Rights reported that victims of torture were disproportionately of African ancestry and that blacks were more likely to be convicted when brought to trial (see Sections 1.c. and 1.e.). Research by the Institute of Applied Economic Research noted that persons of color were five times more likely to be shot or killed in the course of a law enforcement action than were persons perceived to be white.

On January 13, members of human rights organizations in Sao Paulo held a demonstration to denounce the actions of groups who promote racial superiority and discrimination against Afro-Brazilians, Northeasterners, homosexuals, Jews, punks, and other minorities. Demonstrators also called on authorities to investigate further known racist groups such as Carecas ("Skinheads") do ABC, Carecas do Suburbio, Poder Branco ("White Power"), and Imperial Klans do Brasil. The demonstration was held where skinheads from Carecas do ABC attacked Edson Neris da Silva and Dario Pereira Neto for holding hands in 2000. Silva died from the injuries sustained during the attack.

The predominance of whites in government, business, and academia indicated that Afro-Brazilians had not attained social and economic equality and were significantly underrepresented in professional positions and in the middle and upper classes. Sao Paulo State Deputy Sebastiao Arcanjo noted that Afro-Brazilians constituted a majority in demographic terms but a minority in terms of power. Afro-Brazilians accounted for approximately 2 percent of the executive and management positions in businesses, and the country's diplomatic corps included only six Afro-Brazilians. In June, IBGE reported that Afro-Brazilians suffered a higher rate of unemployment and earned a lower average wage than non-blacks. According to IBGE, the average monthly wage of a white wage earner was nearly double the average earned by black wage earners, a disparity that widened considerably in the upper income classes.

There was a sizeable racial education gap. According to the Ministry of Education, white Brazilians received an average of 7.1 years of schooling versus 5.3 years for Afro-Brazilians; in the Northeast region, the gap was even larger, since Afro-Brazilians received an average of 4.5 years of schooling. According to the Education Ministry, Afro-Brazilians constituted 16 percent of the university population and filled between 3 and 7 percent of the openings in the country's prestigious public universities. During the year, major public universities in the states of Sao Paulo, Rio de Janeiro, Mato Grosso, Bahia, and the Federal District of Brasilia started or continued affirmative action programs. The University of Brasilia set aside 25 percent of its first-year vacancies for self-declared students of color.

Indigenous People

The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the Government did not secure these rights.

The country had an indigenous population of approximately 400,000 persons belonging to 215 "nations." The Government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts. The National Indian Foundation (FUNAI), the Government's agency responsible for carrying out indigenous policies, reported that indigenous people faced many problems, including disease and poor health care, loss of native culture, and recurring incursions and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. By year's end, at least 459 of the 616 recognized indigenous areas had reached the final registration stage, 75 were in the process of demarcation, and 133 had yet to be processed. Identified indigenous territory constituted 11 percent of the national territory. A specific congressional committee had oversight responsibility for Indian Affairs.

The Constitution provides indigenous people with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands but only if the Congress approves each case. The Government administered the lands but was obliged to consider the views of the affected communities regarding their development or use, and communities have the right to "participate" in the benefits gained from such use.

Nonindigenous people, who illegally exploited indigenous lands for mining, logging, and agriculture, often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI acknowledged a lack of resources to protect indigenous lands from encroachment and depended on the Federal Police--itself an understaffed and poorly equipped agency--for law enforcement on indigenous lands.

Disputes between indigenous and non-indigenous people created tension that occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights in which some indigenous people resorted to forceful occupation, hostage taking, and killing.

From the end of 2003 through the beginning of the year, members of the Guarani-Kaiowa tribe in the State of Mato Grosso do Sul used invasion tactics to claim demarcated land. In December 2003, tribe members occupied 14 farms near Japora and

Iguatemi on the Paraguayan border to expand the Aldeia Porto Lindo reserve from 4,000 to 23,500 acres. Indigenous people took 22 hostages, including a state attorney general, during the occupation. On January 30, the Guarani-Kaiowa people reached an agreement with FUNAI and the federal Public Prosecutor to vacate 11 of the 14 invaded farms for the return of 19,500 acres to the tribes. The indigenous people were allowed to remain provisionally on three of the farms so long as they did not hinder production. Landowners took the case to the Federal Regional Tribunal in Sao Paulo, requesting the immediate and complete return of their land. On February 3, the judge upheld the decision to limit the eviction of the occupiers and return of the land to the previous occupants and to resolve the dispute with the Guarani-Kaiowa tribe members through negotiations. Two days later, the indigenous people left most of the invaded farms, except for three that they continued to control, while allowing owners to re-enter the properties.

In early April, members of the Cinta-Larga tribe killed 29 diamond prospectors who were working illegally on an indigenous reservation. In late April, Federal Police identified 12 members of the Cinta-Larga tribe as having been involved in the killings. However, others reported that the killings were the result of a disagreement between indigenous leaders who were involved in diamond smuggling and charged the illegal prospectors "fees" for access to the reservation. FUNAI and local indigenous leaders claimed that the Indians were protecting their land against illegal invasion and that previous incursions onto their territory had gone unpunished. The Government undertook to increase monitoring of the reservation.

On the Raposa Serra do Sol reservation in Roraima State, the long-running land dispute between Indians and rice planters continued after the Supreme Court refused to overturn a lower court's order that stopped demarcation of the disputed territory. On June 30, Indians occupied a riverbank region occupied by rice cultivators. In November, FUNAI reported that area landowners used violence to intimidate indigenous supporters of demarcation, attacking members of the Macuxi tribe and demolishing several of their villages. The tension between rice farmers and Indians continued at year's end as both sides awaited a final ruling from the Supreme Court on demarcation.

No new information was available regarding the January 2003 killing of Marcos Veron, a prominent leader of a Guarani-Kaiowa indigenous nation in Mato Grosso do Sul State involved in a dispute over territory in Dourados. His nephew also was killed and many others were beaten in the same incident. Authorities indicted 27 persons and arrested 14 in connection with the killing, and the Federal Justice Minister undertook to analyze the case and make a decision on resolving the land dispute.

No new information was available and none was expected on the June 2003 killing of Caingangue leader Adilson Cardoso in Faxinalzinho, Rio Grande do Sul State.

Some universities, such as the University of Brasilia, began or maintained affirmative action programs for indigenous people.

Other Societal Abuses and Discrimination

There was a history of societal violence against homosexuals. Although the Constitution does not prohibit discrimination based on sexual orientation, state and federal laws do prohibit such discrimination, and the federal and state governments remained committed to combating it.

According to the Ministry of Health, there were approximately 180 killings of homosexuals during the year.

No further information was available, and none was expected, in the August 2003 trial of military police officers accused of the 2000 beating death of transvestite Henrique de Souza Lima in Curitiba, Parana.

In December 2003, state prosecutors charged Mayor Elcio Berti of Bocaiuva do Sul, Parana State, with violating state and federal antidiscrimination laws and abuse of administrative power for issuing a decree in December 2003 prohibiting homosexuals from living in the town. The town's public prosecutor convinced Berti to revoke the decree to avoid a public investigation and filing of the case. In a hearing on June 16 for a civil case against the mayor, filed by the human rights NGO Grupo Dignidade, Berti claimed that the decree was an internal joke that was mistakenly released to the press. Grupo Dignidade filed a further case against the mayor with the National Council to Combat Racism. The case remained pending at year's end.

During the year, four gang members convicted in the 2000 killing in Sao Paulo of Edson Neris da Silva received sentences ranging from 2 to 19 years in prison.

The Secretariat of State Security in Rio de Janeiro, in partnership with NGOs, operated a hotline and offered professional counseling services to victims of anti-homosexual crimes.

In November, Rio de Janeiro state lawmakers reversed the governor's veto on a bill that gives same-sex partner benefits to government employees. The state's 70-member assembly voted 37 to 21 to override the veto and the law went into effect. In July, a Sao Paulo state court ordered 15 health insurance companies to recognize same-sex couples in their coverage.

In April, the Special Secretariat for Human Rights launched the "Brazil Without Homophobia" program, which sought to stop violence against homosexuals, provide legal counsel to victims of violence, and prevent anti-homosexual sentiment by providing tolerance training for school-aged children. According to the National Secretariat for Human Rights, the program aims to

strengthen public institutions and NGOs that promote homosexual rights and combat homophobia; offers training to professionals and representatives in the homosexual community; creates publicity campaigns to raise awareness and disseminate information about homosexual rights and to promote homosexual self-esteem; and encourages reporting of violence against homosexuals.

There was some societal discrimination against the elderly. The cities of Sao Paulo and Porto Alegre had police stations that specifically attended to the rights of the elderly. The Sao Paulo police station reported that the number of senior citizens served increased 99 percent (to 4,453) during the year. The station advised senior citizens on their rights and accepted complaints of maltreatment, abandonment, threats, and confiscation of property. Station officials attributed the increase in service to the Statute of the Elderly, which entered into effect on January 1. The Statute criminalizes discrimination against, abandonment of, or failure to provide emergency assistance to the elderly, and provides penalties of up to 6 months in jail. According to the police, close family members, in particular, the victim's children, committed 90 percent of the offenses registered, the most common of which was the confiscation of the senior citizen's pension.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for union representation of all workers (except members of the military, the uniformed police, and firefighters) but impose a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed by other unions. Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union. Union organizers may challenge this decision in the labor courts.

The Constitution stipulates certain restrictions, such as "unicidade" (one-per-city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticized the retention of unicidade. In practice, a number of competing unions were allowed to exist among the thousands of local unions; however, the MLE and the courts enforced the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized. Most informal sector workers, including self-employed workers and those not formally registered with the Ministry of Labor, fell outside the official union structure and thus did not enjoy union representation and were usually unable to exercise fully their labor rights. The informal sector accounted for approximately one-half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that labor leaders were victimized by a campaign of violence in rural areas, with the perpetrators enjoying relative impunity (see Section 1.a.). The CPT reported that seven rural labor leaders were killed during the year.

Violence against labor leaders continued to be most intense in Para State, where--according to leaders of the National Confederation of Agricultural Workers--there was an organized campaign to kill rural labor leaders. Catholic Church sources reported that 33 activists and rural workers were killed in Para State in 2003, including union leader Osvaldo Pereira Santos. CPT leaders in Para State continued to claim that gunmen hired by estate owners committed most of these killings. They noted that those who hire gunmen had become more adept at hiding their participation and increasingly targeted labor leaders with significant experience in organizing and leading land appropriations.

No new information was available and none was expected regarding the 2002 killings of MST leader Ivo Lindo do Carmo and union official Bartolomeu Moraes de Silva.

The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. The law requires employers to reinstate workers fired for union activity; however, at times, the authorities did not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. According to the Supreme Labor Court, more than 2 million complaints were registered annually in labor courts; when ultimately resolved, most parties agreed that cases were decided fairly and on their merits. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years; however, the trial backlog was reduced during the year. Courts have resolved more than the number of new suits filed each year for the period 2000-2003.

b. The Right to Organize and Bargain Collectively

Collective bargaining was widespread in the formal sector. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union.

The Constitution provides workers (except for the military, police, and firefighters) with the right to strike, and workers exercised this right in practice. The Government seldom interfered with the right of government workers to strike. While the civil police were allowed to form unions and conduct strikes, the military (uniformed) police were prohibited from organizing.

The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Failure to end a strike after a labor court decision is punishable by law. Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity provided that the strike is not ruled abusive. However, in practice, employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process (see Section 6.a.).

Labor law applies equally in the country's four free trade zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, including by children; however, forced labor and trafficking of workers were reported in many states (see Section 5). The practices occurred most commonly in the rural north and central west of the country, in activities such as forest clearing, logging, charcoal production, raising of livestock, and agriculture. Forced labor typically involved young men drawn from the impoverished northeast, but women and children also were engaged in activities such as charcoal production. Children involved in forced labor typically worked alongside their parents.

Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo. According to government officials, Bolivian, Korean, and Chinese laborers were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

In a March report to the U.N., the Government acknowledged that an estimated 25,000 workers were trapped in forced labor schemes throughout the country. The Pastoral Land Commission, an NGO linked to the Catholic Church, made a similar estimate. A November ICFTU report estimated that 40,000 persons worked in conditions of slavery.

Labor intermediaries ("gatos") trafficked most forced laborers to the remote estates where they worked. At the worksite, laborers were forced to work in harsh conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing.

The CPT reported that fleeing workers were killed or beaten to intimidate others at the worksite. Workers were vulnerable to forced labor schemes largely due to dire poverty, low levels of education, and a lack of awareness about their rights.

The Penal Code provides that violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme. The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies.

The law also allows the Government to expropriate lands on which forced labor has been found and to distribute the property in the Government's land reform program; however, this provision was narrowly focused. The Senate approved a constitutional amendment, which the Chamber of Deputies had under consideration at year's end, to facilitate the process of expropriating land where forced labor has been found and to permit distribution of the land to workers who had been in the condition of forced labor. On October 19, the Government announced the expropriation of "Cabaceiras," a farm located in Maraba, Para State. A February inspection found that 18 workers, including a 16-year-old, lived at the farm and worked under slave-like conditions.

Because of the limitations of the Penal Code concerning forced labor and the slow workings of the criminal justice system, violators of forced labor laws enjoyed virtual impunity from criminal prosecution. As a result, the Government used fines and other disincentives to penalize those who utilized forced labor. The Public Labor Ministry closed more than 50 cases involving fines and other penalties for landowners who used forced labor. In addition, the Government developed a blacklist to stop all forms of government-assisted credit to farms using forced labor. Other factors contributing to the lack of criminal prosecutions included: Disputes over legal jurisdiction; the lack of a clear definition of forced labor in the Penal Code; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids.

The Executive Group to Combat Forced Labor coordinated the Government's efforts to eliminate forced labor. The group's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who sometimes accompanied labor inspectors on raids to provide protection. When mobile teams found workers in conditions of forced labor, they levied fines on estate owners and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

During 2003, the mobile group located 5,010 forced laborers, nearly double the figure from the previous year. Forced laborers were found in activities including deforestation, logging, mining, raising livestock, and harvesting sugarcane, coffee, cotton, papayas, pepper, and soybeans.

In February, the mobile team freed 38 forced laborers from a farm owned by Senator Joao Ribeiro in Picarra, Para State. On June 17, the Senator was charged in Federal Court for having workers in conditions of forced labor on his plantation, and the case remained pending at year's end.

The case involving 53 workers found working in conditions of forced labor in 2002 on a ranch owned by Inocencio Oliveira, a leading member of the federal Chamber of Deputies, was resolved with a heavy series of fines, amounting to more than \$200,000 (560,000 reais), plus damages to the workers.

Although mobile units enjoyed some success in freeing those operating in slave-like conditions, inspectors sometimes faced resistance. On January 28, three team members and their driver were killed while conducting inspections in Unai in Minas Gerais State (see Section 1.a.).

The Government conducted programs to prevent workers from repeatedly falling prey to trafficking and forced labor schemes. Freed workers may receive three installments of unemployment insurance equal to the minimum wage, approximately \$93 (260 reais) per month, and were eligible for job training. The CPT ran an informational campaign to educate rural workers, particularly in rural areas targeted by traffickers, about the dangers of forced labor (see Section 5). In some states, local unions registered and tracked workers who left the municipality to work on remote ranches. The National Confederation of Agricultural Workers' radio programs also educated rural workers about forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment

The law restricts work that may be performed by children; however, child labor continued to be a widespread problem.

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18. The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades.

In 2003, 6.7 percent of children age 14 and under worked. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. The highest incidence of child labor was found in the Northeast, where half of all child workers in the country were employed. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

The Ministry of Labor reported that children worked in approximately 100 rural and urban activities. Common rural activities included fishing, mining, raising livestock, producing charcoal, and harvesting sugarcane and other crops. In urban areas, children worked in shoe shining, transportation, construction, restaurants, street peddling, begging, drug trafficking, and prostitution (see Section 5). The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE was responsible for inspecting worksites to enforce child labor laws. Special Groups for the Eradication of Child Labor guided regional efforts to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Still, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Labor inspectors continued to prioritize inspections in the informal sector to reduce the number of unregistered workers, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$143 (400 reais) per violation. As a result, few employers were fined for employing children.

MLE inspectors often worked closely with labor prosecutors from the Public Ministry of Labor (MPT), who had broader powers and were able to impose larger fines. The MPT--an independent agency responsible for prosecuting labor infractions--has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting.

The Ministry of Social Assistance coordinated the Government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. Because the public school day lasts only 4 hours, PETI emphasized complementary educational activities for children during non-school hours as an alternative to working. PETI assisted more than 1 million children in all 26 states and the federal capital during the year, focusing on removing children from work activities considered to be among the most hazardous by the Government. Although the program

concentrated on rural areas, it also grew rapidly in urban areas.

To prevent child labor and promote education, the Federal Government also continued to expand Bolsa Escola, its school stipend program. The program provided stipends of approximately \$9 to \$14 (25 to 40 reais) to low-income rural and urban families for each child (up to a total of three children per family) between the ages of 6 and 15 whose school attendance rate was 85 percent. Municipal governments had primary responsibility for day-to-day management of the program. At year's end, the program provided stipends to the mothers of approximately 810,000 children in more than 2,500 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs.

NGOs supported the Government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor, with chapters in every state and more than 40 institutional members from the Government and private sector, promoted debate and broad analysis of national child labor prevention efforts. In addition, the Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to reduce instances of child labor in the footwear industry.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research promotion, incorporation of income generating schemes, and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (see Section 5).

UNICEF supported more than 200 programs to improve the lives of children, remove them from exploitative work situations, and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

The private sector also played a role in fighting child labor. The Toy Industry's ABRINQ Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The foundation also fostered initiatives through its awards programs for organizations, journalists, and mayors. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

e. Acceptable Conditions of Work

The national minimum wage did not provide a decent standard of living for a worker and family. The Government adjusts the minimum wage annually; in April, it was raised from approximately \$86 to \$93 (from 240 to 260 reais) a month. In December, the Government announced plans to raise the minimum wage to \$107 (300 reais) a month in 2005. The IBGE estimated that approximately one in three workers earned the minimum wage or less.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also includes a prohibition on excessive overtime and stipulates that hours worked above the weekly limit must be compensated at time and a half pay; these provisions generally were enforced in the formal sector. The law allows employers to compensate workers with time off rather than with overtime pay, provided that the local union agrees.

The Ministry of Labor sets occupational, health, and safety standards, which are consistent with internationally recognized norms; however, the Ministry devoted insufficient resources for adequate inspection and enforcement of these standards. Unsafe working conditions were prevalent throughout the country. During 2003, workplace accidents dropped slightly from 393,071, to 390,180, and deaths from accidents dropped from 2,898 in 2002 to 2,582 in 2003. Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings did occur, and legal recourse usually required years for a resolution. The MPT reported that numerous firms used computerized records to compile "blacklists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers could express such concerns to a company committee for an immediate investigation.